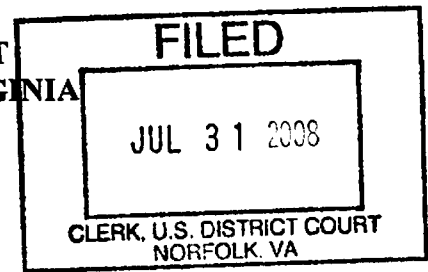


**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**  
Norfolk Division



OTIS MACK, #324497

Petitioner,

v.

ACTION NO. 2:08cv69

GENE M. JOHNSON, Director of the  
Virginia Department of Corrections,

Respondent.

**FINAL ORDER**

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to Petitioner's convictions for three counts of aggravated sexual battery in the Circuit Court for the City of Portsmouth, as a result of which he was sentenced to serve a term of 30 years in the Virginia penal system.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. Report of the Magistrate Judge was filed on July 7, 2008, recommending dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the United States Magistrate Judge's Report and Recommendation and the time for filing same has expired.

The Court, having reviewed the record, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed July 7, 2008.


It is, therefore, ORDERED that the petition be DENIED and DISMISSED.

It is further ORDERED that judgment be entered in favor of the respondent.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within 30 days from the date of entry of such judgment.

The Clerk shall mail a copy of this Final Order to all counsel of record.

  
\_\_\_\_\_  
/s/  
Jerome B. Friedman  
United States District Judge  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia  
July 31, 2008